

**KITTY HAWK PLANNING BOARD  
MINUTES  
Regular Meeting, March 14, 2013 – 6:00 p.m.  
Kitty Hawk Municipal Building**

**AGENDA**

1. Call to Order / Attendance
2. Approval of Agenda
3. Approval of Minutes:
  - a. December 13, 2012 Meeting
4. Administrative Report:
  - a. Town Council Action from Recent Meetings
5. Conditional Use Permit:
  - a. Dominion NC Power Wind Turbine Demonstration Project, 5300 The Woods Road
6. Text Amendment:
  - a. Section 42-577 / Table IV / Table V – Neon "Open" Signs
7. Comments:
  - a. Chairman Northen
  - b. Planning Board Members
  - c. Town Attorney
  - d. Planning Director
8. Public Comment
9. Adjourn

**1. CALL TO ORDER / ATTENDANCE**

Chairman Northen called the meeting to order at approximately 6:02 p.m., followed with roll call by Planner Heard.

**PLANNING BOARD MEMBERS PRESENT:** Oscar Northen, Chairman / Craig Garriss, Vice Chair  
Richard Fagan / Jeff Pruitt / Don Stallman / Lynn McClean, Alternate / John Richeson, Alternate

**STAFF PRESENT:** Joe Heard, Director of Planning & Inspections / Starkey Sharp, Serving as  
Town Attorney in Steve Michael's Absence

**2. APPROVAL OF AGENDA**

Hearing no changes, the **Chair declared the agenda approved as submitted.**

**3. APPROVAL OF MINUTES:**

**a. December 13, 2012, Meeting.** With hearing no changes to the minutes, **Chairman Northen declared the draft minutes for December 13, 2012 approved as presented.**

#### 4. ADMINISTRATIVE REPORT:

a. **Town Council Action from Recent Meetings.** As a brief summary of action taken by Council during its recent meetings (the Planning Board last met in December), Planner Heard brought forward the following items of interest:

- During January, Council held a public hearing on the conditional use permit for the repair expansion proposal for Beach Ready Auto. No action was taken until the February meeting, and after consideration, Council voted to grant approval of the request. One issue different than what was recommended by the Planning Board is the Council chose to not permit the vehicle rental service; however, the business will be permitted to have loaner or courtesy cars for customers having vehicles repaired.
- At the February meeting, Council voted to approve several amendments to the Small Wind Energy Ordinance. [As a result of those amendments, Dominion Power is presenting a project proposal for a conditional use permit, addressed later in this agenda.]
- At Council's March meeting, though no formal items were scheduled, a speaker during Public Comment addressed an issue regarding the use of neon "open" signs, those commonly used in business display windows. [Said matter to be reviewed later in this agenda, as the Town Planner has worked with the speaker on a text amendment proposal.]

#### 5. CONDITIONAL USE PERMIT:

a. **Dominion NC Power Wind Turbine Demonstration Project, 5300 The Woods Road.**

Planner Heard reviewed with the Planning Board a summary of the proposal, noting the applicant will provide a more in-depth idea of what the project involves. Borrowing a slide from the applicant's PowerPoint presentation, versus using the site plan, the Planner highlighted features of the project. A memorandum dated March 14, 2013 detailing the staff's review is entered into this record of review:

**Proposal**

*The applicant is requesting approval of a conditional use permit to establish four (4) wind turbines as part of an electric public utility research project on the Dominion NC Power property at 5300 The Woods Road.*

*Wind Turbine #1 – Aeolos 5kW, traditional wind turbine, rotor (blades) diameter of 21 feet, white monopole tower 59 feet in height, total of nearly 70 feet in height.*

*Wind Turbine #2 – Aeolos-V 3kW, vertical axis wind turbine, rotor 12 feet in height, tower 26 feet in height, total height of approximately 40 feet.*

*Wind Turbine #3 – UGE 4kW, vertical axis wind turbine, rotor 15 feet in height, tower 23 feet in height, total height of approximately 46 feet.*

*Wind Turbine #4 – GES 5kW, vertical axis wind turbine, rotor 12 feet in height, tower 26 feet in height, total height of approximately 40 feet.*

*The proposed electric public utility research project also includes an approximate 12' x 35' ground-mounted array of solar panels and a lithium-ion battery system. All of these alternative energy features would be visible to the public but contained within the existing fenced area. The energy generated by the wind turbines and solar panels will be used to help power the Dominion NC Power site.*

*The project will also have a significant public education component. Outside of the fence, Dominion Power plans to locate a kiosk with information about the project's alternative energy features and real-time updates on the amount of energy being generated by each wind turbine and solar array. It is planned for this information to be shared through Kitty Hawk Elementary School, other public locations, and a website for the project.*

### **Background Information**

The subject property is 12.58 acres in size and presently zoned Beach Commercial (BC-2). The property essentially functions as a staging area for operations and maintenance activities for Dominion NC Power. The main building on the site contains administrative offices, locker rooms, a small workshop, and covered parking for vehicles. One of the buildings on the northern side of the site contains a mechanic shop and large meeting room. The other building is a warehouse. Gas pumps are located in the southwest corner of the property. A wireless communication tower is located in the center of the property. The remaining paved portion of the site is used for employee parking and storage of vehicles, materials, and equipment. A majority of the site is fenced and inaccessible to the public. There is parking area located outside of this fence in front of the main building. The remaining undeveloped areas of the property are heavily wooded.

Three parcels also zoned BC-2 adjoin the northern side of the subject property. One of these parcels contains Outer Banks Automotive, an automotive repair business. Another contains Harmony Cabinets, a cabinet manufacturing/installation business. A right-of-way for Winsor Place extends for approximately 250 feet between these properties and the Dominion property. The third BC-2 zoned parcel is a 5.4 acre undeveloped property that is mostly wooded.

Three large, wooded properties zoned Kitty Hawk Woods (KHW) and Village Residential (VR-1) are located to the west of the subject property. These parcels are nature conservation areas owned by the State of North Carolina and Nature Conservancy. There is one lot in this area that is privately owned and zoned VR-1, but is presently undeveloped. Across the right-of-way for Grenville Lane to the south are a couple of VR-1 zoned properties that each contains a single-family residence. Two properties are located across The Woods Road to the east. One of these contains a single-family residence zoned Beach Residential (BR-1) while the other is wooded, undeveloped, and zoned KHW.

### **Proposed Conditional Use**

A copy of Section 42-527, Small Wind Energy Facilities (including the recent text amendments), is attached for your reference. This section outlines the current standards and conditions for approval of a small wind energy facility, like the one being proposed.

### **Recent Text Amendment**

At its meeting on February 4, 2013, Kitty Hawk Town Council amended the standards for small wind energy facilities by adopting provisions for allowing electric public utility research projects as a conditional use, subject to the following additional conditions:

- 1) Small wind energy facilities installed on land owned by a public utility as part of an electric public utility research project shall be exempt from the requirements of Section (e)(1). In the case of an electric public utility research project, a maximum of up to four wind turbines may be installed on a single non-residential property.
- 2) Small wind energy facilities installed on land owned by a public utility as part of an electric public utility research project shall be exempt from the requirements of Section (e)(2) specifying that a wind turbine's height may not exceed 35 feet from grade. In the case of an electric public utility research project, a wind turbine's height cannot exceed 70 feet from grade.

### **Staff Analysis**

**Proposed Use:** Electric public utility research project including four (4) wind turbines and a ground-mounted array of solar panels. The wind turbines are presently allowed as a conditional use under the Town's standards for small wind energy facilities.

**Lot Area:** The subject parcel is 12.58 acres in size. This acreage exceeds the maximum lot size of seven (7) acres for new development in the BC-2 district.

**Lot Coverage:** (NOTE: Staff does not have an as-built survey showing the exact layout of the existing improvements. So, the estimate of the existing lot coverage has been calculated from recent aerial photographs of the site.)

Including the existing buildings, accessory structures, paved drives and parking areas, the amount of existing impervious surface on the property appears to be approximately 277,525 square feet (6.37 acres). According to Dare County tax records, the subject property is 547,800 square feet (12.58 acres) in size. Therefore, the existing lot coverage is approximately 50.7% which complies with the maximum lot coverage requirement of 60% for the BC-2 district.

The applicant's proposal doesn't significantly change the total amount of lot coverage. The site plan shows a concrete base of approximately 6'8" x 6'8" (44 sq. ft.) to be located in an existing grassed area

for Wind Turbine #1 (the tallest turbine). An informational kiosk 2'6" x 3'4" (8 sq. ft.) in size would be located in an existing landscaped bed. The remaining improvements (wind turbines, solar panels, and battery system) are located within existing paved areas and would not increase the amount of lot coverage. Including these minor additions of impervious area, the total amount of lot coverage would remain at 50.7%.

Open Space: The existing development leaves 49.3% of the subject property as open space, which is greater than the minimum open space requirement of 35% for the BC-2 district.

Structure Height: Per the recently adopted changes to the Town's standards for electric public utility research projects, a wind turbine's height cannot exceed 70 feet from grade. The four (4) wind turbines proposed as part of this electric public utility research project would be 40', 40', 46', and nearly 70' in height. Therefore, the heights of the proposed wind turbines comply with the maximum height standard.

Structure Setbacks: There are a variety of minimum setback standards that apply to the proposed wind turbines:

- (1) Wind turbines are required to comply with the minimum building setbacks for the district in which they are located. The table below outlines the Town's current minimum building setback standards for the BC-2 district.

<u>Setback</u>	<u>Required</u>	<u>Proposed</u>
Front	15 feet	105 feet
Rear	20 feet	670 feet
Sides (south)	15 feet (corner lot)	45 feet
(north)	10 feet	190 feet

The locations of the proposed wind turbines comply with the Town's minimum building setback standards for the BC-2 district. It appears that all of the existing buildings on the site also comply with the Town's minimum building setback standards for the BC-2 district.

- (2) Wind turbines are required to be a distance of at least 1.1 times their height from occupied buildings on adjacent properties. The following table lists the closest occupied buildings to the north, east, and south of the subject property.

<u>Boundary</u>	<u>Turbine Height</u>	<u>Required</u>	<u>Proposed</u>
North (commercial)	70 feet	77 feet	315 feet
East (residential)	70 feet	77 feet	225 feet
South (residential)	40 feet	44 feet	190 feet

The locations of the proposed wind turbines comply with the Town's minimum separation requirements from occupied buildings on adjacent properties.

- (3) Wind turbines are required to be a distance of at least 1.5 times their height from public or private rights-of-way. The following table lists the rights-of-way to the north, east, and south of the subject property.

<u>Boundary</u>	<u>Turbine Height</u>	<u>Required</u>	<u>Proposed</u>
North (Winsor Place)	70 feet	105 feet	190 feet
East (The Woods Road)	70 feet	105 feet	105 feet
South (Grenville Lane)	40 feet	60 feet	90 feet

The locations of the proposed wind turbines comply with the Town's minimum setback requirements from adjoining street rights-of-way.

- (4) There is no minimum setback requirement from other buildings on the subject property.

Access: The subject property will continue to be served by two (2) driveways off of The Woods Road. The proposed project would not alter or impact the existing entrances and would only result in minor changes to the internal traffic circulation.

Parking: The subject property presently contains 44 parking spaces located outside of the fence and 32 designated parking spaces inside the fence (a total of 76 designated parking spaces). With large amounts of paved surface, the property could also accommodate a great amount of additional parking informally throughout the site.

As several of its features would be located in existing parking areas, the proposed electric public utility research project would result in a loss of approximately eight (8) parking spaces inside the fence in the area containing the solar panel array and battery system, leaving a total of 68 designated parking spaces on the property.

Three (3) parking spaces adjoining the informational kiosk outside the fence are proposed to be dedicated for public parking to view the demonstration project and kiosk.

The minimum number of parking spaces for the proposed uses is calculated below:

<u>Parking Calculations</u>	<u>Ratio</u>	<u># Required Spaces</u>
3,780 s.f. office/workshop space	1 per 300 s.f.	12.6 spaces
50 employees	1 per 2 emp.	25.0 spaces
Kiosk (public parking)		<u>3.0 spaces</u>
<b>TOTAL (Minimum Parking Required)</b>		<b>40.6 spaces</b>

**(rounds up to 41 spaces required)**

The remaining 68 parking spaces would be more than sufficient to comply with the Town's minimum parking requirements for the current use of the property.

**Buffers:** Current standards for the BC-2 zoning district require a fifty foot (50') separation zone between commercial buildings/parking areas and adjoining residential zoning districts. Most areas of the property appear to comply with this standard. However, it appears that a portion of the paved parking/equipment storage area near the southern property line may be within fifty feet (50') of the VR-1 zoning boundary centered in the Grenville Lane right-of-way. This paved parking/equipment storage area is approximately 120 feet from the closest residence across the street. The applicants are not proposing to change anything in the buffer area or increase the existing nonconformity. If deemed necessary, the Planning Board can recommend landscaping in the buffer zone as part of the conditional use permit.

**Lighting:** The applicants are not proposing any changes to the site lighting as part of the proposed electric public utility research project. The wind turbines would not be uplighted.

**Signs:** The applicants are not proposing to erect additional signs, except for information on the kiosk itself. Any future signs would have to comply with Town standards and obtain approval under a separate, administrative permit.

**Stormwater Management:** The proposed project would not alter the existing flow of stormwater on or off the site and would not create a need for additional stormwater management improvements.

**Flood Zone:** A majority of the improved area on the subject property appears to be located within an X flood zone, but other portions of the property (including a narrow area at the front of the property) appear to be within an AE flood zone. The improvements proposed as part of the electric public utility research project would be permitted within either flood zone.

#### **Land Use Plan**

The Town of Kitty Hawk's adopted CAMA Land Use Plan designates a majority of the subject property as a "Community Facilities Area" on the future land use map. A small portion of the existing property that abuts the Grenville Lane right-of-way is designated as a "Lower Density Residential Area". As part of its review, the Planning Board is asked to make a determination that the proposed development is consistent with the goals and objectives outlined in the land use plan.

#### **Conditional Use Findings**

Per the standards of Section 42-99(b)(7), in order to approve this application, the Town Council must make findings that the proposed conditional use:

- does not materially endanger the public health or safety,
- does meet all required conditions and specifications,
- will not substantially injure the value of adjoining property or be a public nuisance, and
- will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan.

As part of its review, the Planning Board is asked to provide its findings regarding these issues.

#### **Planning Board Action**

The Planning Board has been asked to provide the Town Council with a recommendation regarding a conditional use permit to establish the wind turbines at 5300 The Woods Road as part of an electric public utility research project.

Should the Board decide to recommend approval of the proposed use, the motion could be worded in the following manner:

**"The Board has found this proposal to be consistent with the Town's adopted land use plan. I recommend approval of the conditional use permit to establish four (4) wind turbines as part of an electric public utility research project at 5300 The Woods Road, subject to the following conditions:**

- The electric public utility research project must comply with all standards and conditions of the Town's small wind energy facilities ordinance (Section 42-527).
- The audible sound from the wind turbines must comply with the standards of the Town's noise ordinance.

3. **The wind turbines must be equipped with a braking device and emergency shutoff.**
4. **All components of the wind energy facility must be maintained in a manner consistent with the manufacturer's recommended maintenance plan.**
5. **The applicant must provide a decommissioning plan that describes the anticipated life of the project and replacement or removal of the wind turbines according to the standards in Section 42-527(h).**
6. **Information about the components of the alternative energy project and data about the generation of electricity must be made public throughout the duration of the project at the kiosk and other public locations arranged by the applicant."**

Additional conditions can be recommended as necessary to address concerns and improve the compatibility of the proposed use with surrounding areas.

**Directions to the Subject Property**

From Kitty Hawk Post Office, N. Croatan Highway & Kitty Hawk Road, drive approximately 1.8 miles west on W. Kitty Hawk Road. Turn right onto The Woods Road. Drive approximately 1.9 miles north on The Woods Road - 5300 The Woods Road, containing the Dominion NC Power facility, is located on the left, approximately 500 feet before you reach N. Croatan Highway (U.S. Highway 158).

During the Planner's summary, it was noted the two areas would be converted from grass surface to impervious area: (1) the public informational kiosk would cover 8 sq. ft. of an existing landscaped island and (2) the base of the larger turbine would cover 44 sq. ft. of an existing grassed area north of the northern entrance drive. The overall lot coverage increase is extremely minimal in the large scheme of things – it does not even change the lot coverage calculations. The proposed project will have no significant impact on stormwater drainage.

To aid Council's decision, the Planner asked that when the Board was ready to make a recommendation, input be given with regard to the conditional use findings.

The floor was given to representatives from Dominion NC Power: Michael Thompson, Andy Flavin and Ed Hall.

After a brief introduction, Thompson indicated Flavin and Hall would be available for specific and detailed questions. Thompson offered to provide a PowerPoint presentation if the Board so desired, and Chairman Northen replied that earlier presentations have already given Board members a good idea of what is being proposed, noting there is a general consensus for encouragement of the project. If there is additional information to be presented, the Chair directed, attention should be given to such, as well as opening discussion to include questions from Board members.

Commenting that he has a few interesting items to share with the Board, Thompson explained he not only manages state and local affairs but also lobbies in Raleigh on behalf of Dominion Power. He said the micro-grid project is allowed by SB 3, which was passed on August 1, 2007 and includes tax credits for alternative energy projects. This session, HB 298 [Affordable and Reliable Energy Act] was introduced by Representative Hayden. This bill could jeopardize the proposed project by eliminating the tax credits under SB 3 called REPS [Renewable Energy and Energy Efficiency Portfolio Standard]. Dominion is still working to clarify the tax credit issues and is evaluating the impact of HB 298 (and will continue to monitor as changes occur).

VC Garriss inquired if there were any neighboring property owners present who would like to say something for the record, and with the Chair's acknowledgement, the floor was opened for participation by the public, with Board comments beginning the discussion.

First, VC Garriss commended Dominion for its endorsements and interaction with the local school system.

Regarding HB 298, Stallman asked if the proposed project could be jeopardized, and Thompson acknowledged it could, explaining REPS gives the ability for Dominion to do demonstration projects. The tax credits also play a role in Dominion being able to accomplish the project.

Upon Stallman inquiring what is meant by "assuming an acceptable cost recovery mechanism," Thompson deferred the question to Flavin who explained how existing law allows for renewable energy projects and the compliance mandates which have to be met. A special designated cost recovery mechanism allows utility companies to recover the costs spent on the projects, but should HB 298 proceed in such a way that would eliminate or change it in some way, the statement of "assuming an acceptable cost recovery mechanism" refers to the ultimate concern facing Dominion of being able to recoup the described project's expenses.

Stallman offered he believes the proposed project is a great idea and hopes it can be done.

Directing his question to Flavin, Fagan recalled a previous discussion he has had regarding turbine noise, when he had monitored noise levels of the wind turbine at Jockey's Ridge. Flavin acknowledged he remembers said discussion. Fagan reported he has since learned the reason for the noise he had heard was the condition of the turbine at that time, which needed repair due to damage from a pelican hitting the back part of the motor (not the blades) which affected how the blades adjusted to wind speeds.

Fagan then stated he is curious about any partnership between Dominion Power and the federal government concerning the proposed project, and Flavin pointed out there is no formal partnership, per say. NC law allows for a state tax credit to anyone, individual or business, who installs a renewable energy property, and there is a federal tax credit very similar to the state tax credit – both of which have been in place several years and by which Dominion hopes to recoup the overall cost of the proposed project. HB 298 is being evaluated, so a good indication can be determined what, if any, how various mechanisms will work themselves out, thus to know what the implications might be regarding tax credits and such.

A question was then posed by Fagan concerning noise, noting the text amendment requires compliance with the Town's noise ordinance. Flavin explained he has reviewed the Town's noise ordinance and did not find a specific decibel level that could be applied to the proposed application. However, Dominion has provided decibel levels for the Board's review and comparison. He pointed out the decibel levels depicted in the information are assuming someone is standing within a few feet of the base of a turbine. As one would move away from the turbine, the noise diminishes significantly. The current ordinance has requirements for property setbacks, and most persons would think of such as a "fall zone" protection, but another reason for the setbacks is to address the noise issue, which would provide for a lower decibel level. In short, Flavin said he does not see any difficulty in complying with the Town's noise ordinance, and with the size of the Dominion property and the spacing of the turbines, there should be no noise issue.

Pruitt asked about the buffer ownership between Grenville Lane and Dominion, and Planner Heard indicated the area is privately-owned properties – that the road is the dividing line – the trees toward the west are on the Dominion side. Pruitt then described the area of houses south of Grenville Lane, looking back at the trees, and Heard explained that without the aid of a site plan specifically delineating them, it appears from the aerial map that some of the trees may be on Dominion's property and some may be within the Grenville Lane right-of-way. Other trees are located on the southern side of Grenville Lane against the residential properties.

In following his questions and directing attention to the solar panels, Pruitt asked about how the solar panels would be erected, whether at an angle or flat. Flavin described they would be ground-mounted parallel to the sun, at a tilt to optimize the energy production. Adding to the discussion was Ed Hall, explaining that most installers of solar panels try to optimize upon energy production and coinciding with the sun's highest radiance (between 12:00 p.m. to 1:00 p.m.). However, the peak energy need of Dominion's customers comes at around 5:00 p.m., and the project's solar panels would be tilted to coincide with peak energy need, which is to be a research component of the project. Though some total energy output may be lost, the demand is more beneficial to Dominion at 5:00 p.m. and the panels would be physically paralleled towards the sun. Pruitt asked for verification if the panels would be tilted facing away from Grenville Lane, and Hall replied, *"it is more of a southern exposure, so it's actually, on the north side, will be the high end of the panels, and towards the south end, it would be the lower end of the panels,"* adding there would be some reflection.

Because of the lack of low-vegetation buffering and being mindful of the residents on Grenville Lane, Pruitt asked if Dominion would address anyone's concerns with the panels being reflective or producing a glare whether brought forward during public comment or later with the project if approved, and Hall stated that most solar panels do have a slight reflection but it is not a problem which would be a nuisance (not even to aircraft). Flavin then noted the fence running along the playground area and towards Grenville Lane has a green screen on it which acts as a buffer and should help block any glare, as well as the scrap metal dumpsters blocking view. At this point, Flavin confirmed, there should be no problem with what is being described.

McClellan indicated she has no questions at this time.

As to the three wind turbines to be located on the south end of the proposed project, Richeson inquired about the possibility those units would be competing against each other because of close proximity to each other. Flavin replied the issue has been looked at, the spacing addressed, and with the fact the turbines are vertical, prevailing wind speeds were used in determining the spacing (short of spacing them out across 10 acres and different considerations weighed).

Chairman Northen returned to the concern about glare, asking if glare were to become a problem in the future would something be done to resolve it. Hall offered it would be done.

At this point, the Chairman explained new procedures the Planning Board will follow beginning with this review, as Council has given approval for such. Notifying adjacent property owners and giving them an opportunity to speak and provide input during a Board's review is something requested by Board members, and adjacent property owners were present for this application's review. The Chair addressed those present by noting the Planning Board is only an advisory board who provides the Council with a recommendation. Town Council ultimately makes the final decision and offers another opportunity for when the public may give input. Comments were requested to be made as succinctly as possible with each person asked to identify themselves for the record, giving their name and address.

**Michael Calvino – 5154 The Woods Road, on the corner of Grenville Lane.** Stating he is not opposed to the proposed project, Calvino commented he is just opposed to its location. He inquired if anyone present is familiar with infrasound, that people are getting sick and having disabilities from it. Attorney Sharp interjected a suggestion for the speaker to offer his comments toward the Board rather the Dominion representatives. Calvino indicated two of his concerns relate to noise and the height of the solar panels, offering a comparison of the Town's first floor

building requirement being 10' and Dominion's buffer fence stands at 8'.

Calvino posed a series of questions relating to why the Dominion site was chosen: Why next to a kid's park? Why is it not a project in conjunction with the visitor's center? Why not in a location more open and not in a residential area? He then expressed concern about the proposed project affecting adjacent property values, citing that property owners in Germany are literally walking away from their homes because they are sick from infrasound and the values of those homes have decreased 20-30%. As to the information depicted this meeting regarding decibel levels and how the charts "make it look good," he posed if anyone runs their dishwasher 24/7, hears conversations 24/7, indicating he is already awakened between 6:00-7:00 a.m. by the sounds of chains dragging, dumpsters being emptied, and the noise from the play park spilling over onto his property. He added that he was informed the Town did not have to notify him as a property owner regarding the park when it was proposed, to which Planner Heard acknowledged is accurate.

When Calvino began to make further comments regarding the park, the Chair pointed out the park is not an issue during this discussion, and Calvino explained he raises the issue of the park as an example of, his opinion, Dominion NC Power not doing what the company said it would do. Further comments were made by Calvino regarding water runoff from the Dominion property as well as the park area, that the rainwater runoffs are blocked and stormwater backs up onto his property. Again, Chairman Northen asked that comments relate to the application before the Board, advising the speaker the other matters are to be resolved at a later time between him and the Town.

In summary, Calvino said his concerns deal with noise, the infrasound sickness of non-audible noise and how far it travels, and with prevailing winds being north/northeast, the noise path of the wind turbines would be directly towards his house, if noise follows the direction of the wind.

The Chairman thanked Calvino for his statements and indicated the Board will take them under advisement, reminding Calvino he can also take his concerns before the Town Council when the matter is forwarded. When Calvino asked if he could provide the Board with information detailing what he has described, the Chair indicated they have already received similar information. Planner Heard added he would be happy to forward the information to Council along with the Board's recommendation.

**Johnny Cison – Michael Calvino's son-in-law.** With addressing that his concern relates to noise, Cison said information presented this meeting did not list the decibel levels for the proposed turbines, offering the noise would probably be omni-directional (spread in all directions). Turbines are typically attached directly to one's home, with intermittent noise, but this project has a line of turbines and the noise would be directed towards nearby residences. As far as the chart depicting decibel levels, those are structured numbers, Cison stated, and a group of turbines would cause a buildup of noise levels versus the impact of one turbine. As to infrasound and low-level frequency sounds generated by turbines, clarification needs to be made as to any impact, to have more than just decibel levels discussed and to include studies relating to such and how/if it affects the human ear or causes side effects.

There were no more speakers for offering public input.

Directing his question to Dominion representatives, Chairman Northen asked if he is correct in assuming the "egg beater" type turbine does not create the decibel levels as the taller turbine does, and Flavin indicated the Chair was correct, that the three smaller turbines would

be anywhere from 10 to 17 decibels lower than the larger unit, assuming someone is standing within a few feet of the turbine itself.

The Chair then called for further questions, and hearing none, the floor was opened for a recommendation to Council.

Upon a technical question regarding the form of the recommendation, **Fagan moved to recommend approval that the Board has found this proposal to be consistent with the Town's adopted land use plan, to recommend approval of the conditional use permit to establish four (4) wind turbines as part of an electric public utility research project at 5300 The Woods Road, subject to the following conditions:**

1. **The electric public utility research project must comply with all standards and conditions of the Town's small wind energy facilities ordinance (Section 42-527).**
2. **The audible sound from the wind turbines must comply with the standards of the Town's noise ordinance.**
3. **The wind turbines must be equipped with a braking device and emergency shutoff.**
4. **All components of the wind energy facility must be maintained in a manner consistent with the manufacturer's recommended maintenance plan.**
5. **The applicant must provide a decommissioning plan that describes the anticipated life of the project and replacement or removal of the wind turbines according to the standards in Section 42-527(h).**
6. **Information about the components of the alternative energy project and data about the generation of electricity must be made public throughout the duration of the project at the kiosk and other public locations arranged by the applicant.**

Fagan then posed if the Board wants to add a condition regarding glare, and with pausing to consider wording, he offered the following language as amended by the Chair and suggested language by the Town Attorney:

7. **In case of a buffer zone complaint about a provable glare, a buffer zone will be considered.**

Upon call for the vote on the recommendation, **the motion carried unanimously, 5-0.**

The Chairman thanked Dominion's representatives for their participation in this discussion and for what they do, and Thompson on behalf of Dominion NC Power returned a word of thanks for the Planning Board's time.

## **6. TEXT AMENDMENT:**

**a. Section 42-577 / Table IV / Table V – Neon "Open" Signs.** Planner Heard reviewed his memorandum dated March 14, 2013 with the Planning Board, summarizing the issues behind this text amendment request. Said memo is entered into this record of review:

### **Town Council Meeting – 3/4/13**

*During the public comment period at its meeting on March 4<sup>th</sup>, Kitty Hawk Town Council heard a request from a local business owner to allow slightly larger neon "Open" signs to be used. The business owner stated that the current size limitation makes it difficult for passers-by to see the sign and tell if the business is open. The business owner recommended allowing up to two neon "Open" signs totaling no more than four square feet.*

*The Town Council advised the business owner to work with staff to develop a text amendment for consideration by the Planning Board.*

### **Background Information**

*The current requirements for neon "Open" signs are as follows:*

Maximum number of such signs: 1  
Maximum size of such signs: 2 square feet  
The proposed text amendment would change these standards to:  
Maximum number of such signs: 2  
Maximum size of such signs: Total of 4 square feet

**Consistency w/ Land Use Plan**

There are no specific recommendations regarding the use of signs, but the following policy appears under Community Appearance in the adopted Land Use Plan:

**POLICY #5a: Kitty Hawk will continue to adopt, enforce, and amend as necessary ordinances and procedures (including the sign ordinance) to regulate and improve community appearance.**

As part of its recommendation, the Planning Board is asked to make a determination whether the proposed text amendment is or is not consistent with the adopted CAMA Land Use Plan.

**Planning Board Action**

The Planning Board is asked to provide the Town Council with a recommendation regarding the text amendment proposal.

Should the Board decide to recommend approval of the proposed text amendment, the motion could be worded in the following manner:

**"I recommend approval of the proposed text amendment allowing up to two (2) neon 'Open' signs totaling up to four (4) square feet. The Board has found this proposal to be consistent with the Town's adopted land use plan."**

In explaining how the proposed text amendment would work, Planner Heard said a business owner could choose to have one larger "open" sign of 4 sq. ft. or they could choose to have two smaller 2 sq. ft. signs. This gives a business owner some flexibility in choosing what would work for his/her property.

Present for this review was the applicant, David Hunt, who is a resident and business owner in Kitty Hawk. Adding to the Planner's comments, Hunt noted the ordinance, as it is currently written, allows only one "open" sign no larger than 2 sq. ft., regardless of the size of the building. Using Hurricane Mo's as an example where traffic passes by from both the east and west of the building, the "open" sign can only be seen from one direction. With some businesses set back away from the main highway, it is difficult for motorists to see a small 2 sq. ft. sign.

When asked by Chairman Northen why one sign on the front of a building does not suffice, Hunt used again as an example Hurricane Mo's, that where it is situated in between the highways, only traffic directly in front of the business driving Kitty Hawk Road would be able to see the "open" sign. The Chair indicated he understands the dilemma.

Chairman Northen polled the Board members for questions and input, and Pruitt posed the text amendment could produce, for example, a 4 sq. ft. neon "open" sign in every shop a strip mall. Planner Heard confirmed such would be possible if the text amendment is adopted. General references were made as to what compares with something 4 sq. ft. in size, with Hunt also presenting a sample sign 2 sq. ft. in size.

Fagan verified the only wording used would be "open" on the type of sign being discussed, and Planner Heard said, "correct," pointing out the amendment addresses only the neon "open" sign. There are other current ordinance options for businesses to do a 3 sq. ft. neon logo type sign, if the business so chooses (this sign is not under consideration for amendment). Fagan also verified the sign would be neon and not LED, nor flashing – following the ordinance as it is written. Hunt noted the only difference would be going from one sign to two signs and increasing the possible total signage up to 4 sq. ft.

To follow his questions, Fagan indicated he wants to make sure the applicant clearly

understands what the balance of the ordinance allows and does not allow – clarifying with the applicant the only word to be neon is “open,” and Hunt acknowledged the Planner has also reviewed the same with him.

Stallman asked where the sign would be hung, whether inside or outside of the building, or whether or not they would be used nearby the highway. Hunt stated it is his understanding the sign has to be inside the building, and Planner Heard took a moment to check the wording of the ordinance. Chairman Northen asked the Planner to also check how the ordinance addressed freestanding “open” signs. If they are neon, Heard explained, they would be included, with Attorney Sharp adding, “if you had that sign, and you took off the outer things around it, the measurement would be from the extreme of the lit area, and it would still be regulated.”

After the Chair asked for other questions while the Planner was continuing to check the ordinance language, Attorney Sharp pointed out the proposal does not change whatever the current ordinance allows on this issue. Stallman said his concern deals with the appearance difference between a 2 sq. ft. neon “open” sign out on a pole nearby the road and a 4 sq. ft. pole sign.

To answer the earlier question, Planner Heard indicated he does not see any wording in the applicable sections that say the neon “open” sign can only be located in a window, which is, however, the predominant use of such. Heard said it is a very good point being made by Stallman, which may also deserve some consideration as part of this text amendment to clarify the intent of the language, and the wording of the motion language could address this concern. Hunt noted he would support said part of the text amendment.

Fagan brought forward his having an issue with the policy statement from the Town's adopted CAMA Land Use Plan which is guiding the Board's direction – Policy #5a, which he read into the record: *“Kitty Hawk will continue to adopt, enforce, and amend as necessary ordinances and procedures (including the sign ordinance) to regulate and improve community appearance.”* Noting this statement has to be read after the Board's recommendation has been determined, Fagan commented his concern is with the word “improve,” which is why he is bringing attention to the matter. In reply, Hunt said he understood the concern but pointed out how the Kitty Hawk community business has been having a tough time economically over the last few years, and in order for businesses to prosper and for the community to grow, there has to be a good economy. No one wants to lose the charm that Kitty Hawk has, but in the same token, businesses need all the help they can get. In response to Hunt's comments, Fagan replied, *“you have just stated our dilemma, clearly.”*

With the Chairman calling for a recommendation, **VC Garriss moved the Board recommend approval of the proposed text amendment allowing up to two (2) neon “Open” signs totaling up to four (4) square feet, adding that these signs must be located inside or on the place of business, and noting the Board has found this proposal to be consistent with the Town's adopted CAMA Land Use Plan. Upon call for the vote, the motion carried 3-2, with Fagan and Pruitt casting the dissenting votes.**

**7. COMMENTS:**

- a. Chairman Northen.** Chairman Northen remarked that it was good to see everyone, as it has been a while since the Board has met.
- b. Planning Board Members.** No other comments were made by the Board members.
- c. Town Attorney.** Nothing was addressed by the Attorney.
- d. Planning Director.** The Planner reported the Board would be meeting next month as agenda items have already been scheduled.

There were a few reports Planner Heard offered to bring the Board up-to-date on some activities around Kitty Hawk:

A recent storm closed a section of NC 12 due to overwash and flooding damage, and flooding occurred on many residential properties between the highways. The Town has submitted a proposal for a grant to the Clean Water Management Trust Fund to fund all of the proposed stormwater improvement projects described in the Town's stormwater study for the areas between the highways. For the record, Heard commented, it is not a typical type of project that would be funded by the CWMTF grant, but it is an eligible project. So, the Town is awaiting to see its score, and if the grant is not obtained this year, there will be feedback from the grant staff on how to make the same a stronger proposal in the future in order for it to be more competitive. Council is actively looking at ways to make some of the recommendations of the stormwater study happen and help ease some of the problems that residents experience living between the highways.

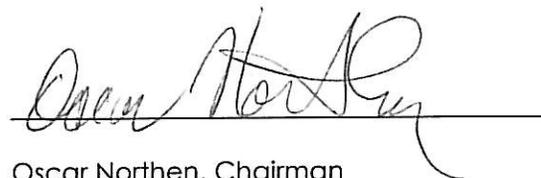
Two CAMA grants have been received from the beach access program, and beach walkovers for the public will be constructed at E. Kitty Hawk Road (directly across from where the Town's sidewalk stubs out) and E. Lillian Street (in front of the access). The Lillian Street improvement will be ADA accessible – designed so that someone in a wheel chair can roll up to a deck on top of the dune and enjoy the sun and surf; it is not intended to be constructed in a way they would be able to go down onto the beach. However, at the Town's bath house, special equipment is provided so persons needing aid in accessing the beach may be able to do so. Bids will soon be solicited from local contractors for construction.

**8. PUBLIC COMMENT**

There was no public comment.

**9. ADJOURN**

With no other items, **the Chair declared the meeting adjourned at approximately 7:18 p.m.**



Oscar Northen, Chairman

Attachments: None

Minutes Transcribed and Respectfully Submitted By: Betty Moore Williams